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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,021	12/29/2005	Jacques Soux	0518-1148	1365
<small>465</small> YOUNG & THOMPSON 209 Madison Street Suite 500 ALEXANDRIA, VA 22314			<small>7590</small> EXAMINER BARTOSIK, ANTHONY N	
			<small>03/17/2009</small> ART UNIT 3635	PAPER NUMBER
			MAIL DATE 03/17/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/534,021

Applicant(s)

SOUX, JACQUES

Examiner

ANTHONY N. BARTOSIK

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 1-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/29/2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This is a Final Rejection sent in response to Applicant's amendments of December 8, 2008.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitations of claims 34 and 36 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The previous objections have been addressed and are thereby removed.

Claim Rejections - 35 USC § 112

The previous rejections have been addressed and are thereby removed.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 36 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This claim is indefinite as it lacks clarity as to what is being set forth.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 22-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rolle (US 3,343,328) in view of Strey et al. (DE 19835241) and Montanelli (DE 2739017).

7. In Re claim 22, Figure 2 of Rolle discloses an upper face and a lower face and two opposite ends; a flange on the upper face and a groove on the lower face for the assembly of the block by tongue and groove joint, and countersunk holes (54) perpendicular to the upper face, passing through the block up to the lower face and located on an axis that is parallel to the flange and between the latter. Rolle does not disclose the flange and groove being a pair of flanges and grooves. Additionally, Rolle does not disclose the spline connection. Rolle does disclose the countersunk holes, but not a group of two as claimed. Including two pairs of countersunk holes at the splined tongue and groove joint would be obvious as a design choice well within the skill of one having ordinary skill in the art. Furthermore the duplication of parts performing the same function and purpose would be obvious absent new or unexpected results. MPEP 2144.04(VI.)(B).

Figure 1 of Strey teaches that it is well known to include a pair of flanges (22) on the upper face and a pair of grooves on the lower face (3) for the assembly of the block by tongue and groove joint. Modifying Rolle to include a pair of flanges and a pair of grooves would have been obvious to one skilled in the art at the time of the invention as a simple substitution of one known element for another to obtain a predictable result.

Figure 11 of Montanelli teaches the well known connection in wooden blocks of a splined tongue (16) and groove (20) joint at each of the two ends, parallel to the wall facings and perpendicular to the upper and lower faces, for a symmetrical assembly at the two ends of the block.

The elements of claim 1 are all well known within the field as a means for connection blocks together. It well known to use a combination of these connections means to strengthen the overall connection and wood block wall. It therefore it would have been obvious to one skilled in the art at the time of the invention to combine all the connection means of the references for use on one wood block as claimed. Such a combination would be nothing more than a combination of prior art elements according to known methods yielding a predictable result, which in this case would be a stronger connection.

8. In Re claims 23, 24, 25, 27-31, 33, 35, 37, and 38, the combination of Rolle, Strey et al., and Montanelli discloses the claimed invention but do not disclose the specific dimensions or shape of the block. Regarding the specifically claimed dimensions, Applicant has failed to establish a criticality for the explicitly claimed dimensions. In *Gardner v. TEC Systems, Inc.*, the Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device. *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984) (citing MPEP 2144.04(IV)).

Regarding the claimed shapes, the combination discloses the claimed invention except for the particular shapes. The Court in, *In re Dailey* held that changes in shape

is a matter of design choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular shape of the claimed container was significant. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (citing MPEP 2144.04(IV)). Here the shape of the block, flanges, and grooves present no significant or unexpected results and would therefore be obvious as such a change would clearly be within the skill in the art.

From the above reasoning, it would have been an obvious design choice to dimension Strey et al. as specified in the claims, as no new or unexpected results are reached by the claimed invention.

9. In Re claim 26, Figure 2 of Rolle teaches a beveled edge (52).
10. In Re claims 34 and 36, the combination of the above references renders the claims obvious.

Response to Arguments

11. Applicant's arguments filed December 8, 2008 have been fully considered but they are not persuasive.
12. ***Applicant argues*** that the claims are allowable since the references do not individually teach the features of the invention, or do not suggest modification so as to arrive at the claimed limitations. The Examiner disagrees and upholds the combination

of the references. The three references, Rolle, Strey et al., and Montanelli, disclose the elements of claim 1. The Examiner recognizes that all the limitations are not all shown collectively together, and thus is asserting a rejection under 35 USC § 103. The absence of one reference disclosing all the elements together does not render the claims patentable. The Examiner is asserting that it is well within the ability of one having the ordinary skill in the art at the time of the invention to combine the claimed securing means together. The combination of these connection means, when used together, are all known by those skilled in the art to create a more secure connection that is capable of withstanding greater stresses. Therefore, one skilled in the art at the time of the invention would have found it obvious to combine the individual features disclosed in Rolle, Strey et al., and Montanelli into one wood block, thereby creating the predictable result of a wood block system that is more structurally sound.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY N. BARTOSIK whose telephone number is (571)270-3112. The examiner can normally be reached on M-F 7:30-5:00; E.D.T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./
Supervisory Patent Examiner, Art Unit 3635

Anthony Bartosik
Examiner
Art Unit 3635

